



U.S. Department of Justice

United States Attorney
District of New Jersey
Civil Division

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January 11, 2021

By ECF only

Hon. Renée Marie Bumb, U.S.D.J.
United States District Court for the
District of New Jersey
Mitchell H. Cohen Building & U.S. Courthouse
4th & Cooper Streets Room 1050
Camden, NJ 08101

Re: *Dorsey v. Ortiz*, 20-cv-03535-RMB

RESPONSE IN OPPOSITION TO MOTION FOR DEFAULT

Dear Judge Bumb:

I write in response to petitioner Dorsey's recent "Motion for Default" in this habeas matter. ECF 9. Dorsey appears to contend that the Respondent never filed or served him with a copy of the Answer that Respondent filed on May 28, 2020. *See* ECF 4. Dorsey is incorrect about that. He may also be contending that he amended his Petition by way of a July 7, 2020 mailing, but that also does not entitle him to default.

As shown on docket for this habeas matter, the undersigned filed an entry of appearance on April 14, 2020, and then filed Respondent's Answer on May 28, 2020. The attached legal mail log pages from FCI Fort Dix show that Dorsey received a mailing from the Office of the United States Attorney for the District of New Jersey on April 20, 2020 and on June 2, 2020, which dates correspond to those two filings.¹ The logs show that Dorsey signed for each.

¹ I obtained these records as counsel for the Respondent. To the extent the Court requires certification of these records, I will obtain any declaration ordered by the Court.

Renée Marie Bumb, U.S.D.J.

Jan. 11, 2021

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At the direction of this Court (ECF 7), Respondent re-served a copy of the Answer on Dorsey when this Office served Dorsey with its opposition to his motion for discovery on December 2, 2020. That mailing does not appear on the legal mail logs at FCI Fort Dix, but I re-checked my records and can assure the Court that my Office prepared that mailing and placed it into the U.S. Postal Service system. Dorsey has not contended that he did not receive it.

To the extent that Dorsey is arguing that he submitted an amended Petition to the Court on July 7, 2020 which must be substituted for his original petition (*see* ECF 6) and answered, Respondent offers two responses. First, Fed. R. Civ. P. 15(a)(2) requires leave of court to file an amended pleading after the original has been answered, as is the case here. Dorsey does not appear to have requested leave to amend, and this Court granted no such leave, so the original Petition is the operative pleading in this habeas matter.

Second, Respondent's May 28, 2020 Answer addresses everything in Dorsey's proposed July 7, 2020 filing, and Respondent would simply request that this Court resolve the matter using that submission. Similarly, if this Court were to construe the July 7, 2020 mailing as Petitioner's reply to the Answer, Respondent has no further filing to make.

There is no basis to grant Dorsey a default judgment, and Respondent requests that this Court deny his motion.

Respectfully submitted,
RACHAEL A. HONIG
Acting United States Attorney

By: / s / John T. Stinson
JOHN T. STINSON
Assistant United States Attorney

Enclosures

Unit Incoming – Certified/Special/Legal Mail

Date Received	Certified No./Legal Mail	Inmate's Name & Register Number	Sender's Name/Return Address	Inmate Print/Signature	Date/Time Delivered to Inmate	Unit Staff Signature of Delivery
5/29/20	REDACTED					EW/CS DHW/CS
6/1/2020						D. Higgins D. Higgins
6/1/2020						D. Higgins D. Higgins
6/2/2020						D. Higgins D. Higgins
6/2/2020	Legal	Dorsey, Robert 43739-083	U.S. Department of Justice, U.S. Attorney's Office, District of NJ 402 E. State Street Room 430, Trenton, NJ 08608-1507	Robert Dorsey Blkts 425	9:16 am 6/2/2020	D. Higgins D. Higgins
6/2/2020	REDACTED					D. Higgins D. Higgins
6/2/2020						D. Higgins D. Higgins
6/2/2020						D. Higgins D. Higgins

F2628.12174mn



Unit Incoming – Certified/Special/Legal Mail

Date Received	Certified No./Legal Mail	Inmate's Name & Register Number	Sender's Name/Return Address	Inmate Print/Signature	Date/Time Delivered to Inmate	Unit Staff Signature of Delivery
		REDACTED				E. Watson 4/3/2020
4/3/2020						G. Thompson 4/3/2020
4/6/20						G. Thompson 4/6/20
4/6/20						G. Thompson 4/6/20
4/7/20						G. Thompson 4/7/20
4/8/20						E. Watson G. A. W. J.
4/8/20						E. Watson G. A. W. J.
4/8/20						E. Watson G. A. W. J.
4/13/20						G. Thompson 4/13/20
4/20/20	legal	Dorsey, Robert S. 43739-083	John Stinson, AUSA U.S. Attorney's Office District of NJ 402 E. State Street, Rm 430 Trenton, NJ 08608	Robert S. Dorsey	4/20/2020 1240 PM	G. Thompson 4/20/20

F2628,12174mn



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**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

ROBERT STERLING DORSEY,
Petitioner,
v.
DAVID ORTIZ,
Respondent.

Hon. Renée Marie Bumb, U.S.D.J.
Civil Action No. 20-cv-03535

CERTIFICATE OF SERVICE

I hereby certify that, having filed the foregoing Letter Response in Opposition with enclosures by ECF on Monday, January 11, 2021, I shall cause a true copy of said documents to be mailed to the following petitioner by First Class U.S. Mail on Tuesday, January 12, 2021:

Robert Sterling Dorsey
Reg. No. 43739-083
FCI Fort Dix
P.O. Box 2000
Joint Base MDL, NJ 08640

/s/ John T. Stinson
John T. Stinson
Assistant U.S. Attorney